

**To:** Schmitz, Jackie (Menendez)[[Jackie\\_Schmitz@menendez.senate.gov](mailto:Jackie_Schmitz@menendez.senate.gov)]  
**From:** Sebastian, Chris  
**Sent:** Fri 4/18/2014 3:26:23 PM  
**Subject:** Re: Superfund allocation question

Hi Jackie, the following is from our legal team, hope this is helpful...

The Superfund program operates on the principle that polluters should pay for the cleanup, rather than the taxpayers. EPA has identified over 100 potentially responsible parties (PRPs), and this number may grow. The PRPs include a wide range of companies, large and small, and there are a number of factors that may come into play in distinguishing among them, including what contaminants were contributed by each party, and how much.

As the remedial process moves forward, EPA will evaluate options for negotiated settlements as well as enforcement, taking into account these factors and others that EPA, in the exercise of its enforcement discretion, thinks are most relevant.

At some sites where there are large numbers of PRPs, the PRPs themselves may undertake to divide up the costs and responsibility. In other instances, some PRPs may reach a settlement with EPA, while EPA – and/or the settling PRPs -- may end up suing the non-settling PRPs.

When EPA enters into a settlement and seeks court approval, the court will evaluate the settlement to see that it is fair, reasonable, and consistent with the purpose of the Superfund law. So, without giving specifics about what settlement approach EPA will take, that is the standard that we will be seeking to achieve.

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**From:** Schmitz, Jackie (Menendez) <[Jackie\\_Schmitz@menendez.senate.gov](mailto:Jackie_Schmitz@menendez.senate.gov)>  
**Sent:** Thursday, April 17, 2014 1:59:05 PM  
**To:** Sebastian, Chris  
**Subject:** RE: Superfund allocation question

Thanks!

**From:** Sebastian, Chris [<mailto:Sebastian.Chris@epa.gov>]  
**Sent:** Thursday, April 17, 2014 1:58 PM  
**To:** Schmitz, Jackie (Menendez)  
**Subject:** RE: Superfund allocation question

Hi Jackie – talking to our project attorneys and will get back to asap – thanks.

**From:** Schmitz, Jackie (Menendez) [[mailto:Jackie\\_Schmitz@menendez.senate.gov](mailto:Jackie_Schmitz@menendez.senate.gov)]

**Sent:** Thursday, April 17, 2014 12:15 PM  
**To:** Sebastian, Chris  
**Subject:** Superfund allocation question

Hi Chris,

Hope you're having a good week. I wanted to follow up on the Passaic cleanup announcement with a question—how does EPA determine how much of the project cost each company will be liable for? Our office heard some concerns from companies with smaller pieces of the liability that if Maxus is not cooperative, they would be forced to cover a much larger share than they are responsible. Can you give me some background on how EPA handles such concerns? Thanks for your assistance.

*Jackie Schmitz*

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